



**State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2982



Raymond St. Laurent
B&S Septic Service & Pumping
211 Dowboro Road
Pittsfield, NH 03263

**ADMINISTRATIVE ORDER
No. WD 04-008**

April 9, 2004

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division to Raymond St. Laurent pursuant to RSA 485-A:4 and RSA 485-A:42. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH 03301.
2. Raymond St. Laurent is an individual having a mailing address of 21 Dowboro Road, Pittsfield, New Hampshire 03263.

C. STATEMENTS OF FACTS AND LAW

1. RSA 485-A:4, XVI-a authorizes DES to regulate the removal, transportation, and disposal of septage through administration of a permit system. Pursuant to RSA 485-A:6, X-a, the Commissioner of DES has adopted NH Administrative Rules Env-Ws 1600 ("the Septage Rules") to implement this program.
2. Raymond St. Laurent is the owner, operator and property owner of the B&S Septic Service and Pumping ("B&S") and septage lagoon facility located at 211 Dowboro Road in Pittsfield, New Hampshire ("Facility"). The Facility consists of three unlined septage lagoons and an adjacent septage solids storage bunker.
3. B&S disposes of septage liquid via infiltration to groundwater through lagoons at the Facility, and the septage solids are periodically removed, consolidated and surface disposed at the Facility, or landfilled.
4. Pursuant to Env-Ws 1604.02(d)(1) and (4), a facility permit is required for the processing, treatment, or disposal (other than land application) of septage; and the construction, operation, and closure of septage lagoons.

5. On March 13, 2001, DES issued a Septage Facility Closure Plan Approval to B&S. Section IV.1 of the Approval states: "If B&S Septic Service and Pumping intends to operate the facility...subsequent to the expiration of Groundwater Discharge Permit No. GWP-887803-P-001, B&S...must obtain a Facility Permit in accordance with Env-Ws 1608 by that time (i.e., September 11, 2002)".
6. On September 6, 2002, DES issued a letter to B&S requesting a Response Plan to mitigate violation of Ambient Groundwater Quality Standards ("AGQS") for nitrate in two of the Facility groundwater monitoring wells. In the letter, DES wrote: "Additionally, until the violation is eliminated, or a response plan is submitted, approved and initiated, DES will not issue a septage facility permit under Env-Ws 1600".
7. On September 23, 2002, DES issued a Waiver Approval to B&S granting a one-year moratorium (until September 22, 2003) on the applicability of Env-Ws 1604.02, which requires a Facility Permit for the operation of a lagoon facility.
8. On March 17, 2003, DES issued a letter to B&S regarding continued violations of AGQS. The letter gave B&S the options of (a) expanding the Groundwater Discharge Zone, (b) submitting a Response Plan, or (c) closing the Facility.
9. On April 18, 2003, B&S through its consultant, HYDROTERRA Environmental Services ("Hydroterra"), submitted a Response Plan.
10. On May 13, 2003, DES performed an inspection of the Facility and noted that the 2-foot minimum freeboard required by Env-Ws 1608.08(e)(2) was not maintained in one of the lagoons.
11. On May 14, 2003, DES issued a letter to B&S requesting additional information about the Response Plan.
12. On June 9, 2003, DES issued a letter to B&S stating that upon expiration of the Waiver Approval (see Paragraph C.7 above) "...in the absence of another regulatory device controlling the operation of this facility (e.g. Administrative Order), you must obtain a valid Septage Facility Permit...in order to continue operation".
13. On July 5, 2003, B&S, through Hydroterra, submitted a letter in response to the June 9, 2003 letter from DES. In the letter, Hydroterra requested a waiver of the 500-foot buffer distance required by Env-Ws 1608.08(f), and stated that B&S is "...working to develop a Response Action Plan...".
14. On August 21, 2003, DES issued a letter to Hydroterra stating that a waiver of the 500-foot buffer distance will not be granted, and that in order to obtain a Septage Facility Permit, B&S would have to either (a) move the lagoons, (b) obtain written acceptance of reduced buffer distance from affected abutter(s), or (c) successfully appeal the decision to the DES Water Council. A response to this letter has not been submitted by B&S.

15. On October 28, 2003, B&S, through Hydroterra, submitted a letter summarizing groundwater monitoring data at the Facility for the past six years, confirming that monthly monitoring of wells L1 and L2 will continue, stipulating that annual discharge volume to the lagoons will be reduced from 250,000 gallons to approximately 140,000 gallons, and that clean out of sludge within the settling lagoon was planned for the late fall of 2003.

16. On January 30, 2004, B&S, through Hydroterra, submitted an Annual Septage Report that indicates 192,250 gallons of septage was disposed of at the Facility in 2003.

D. DETERMINATION OF VIOLATIONS

1. B&S has violated Env-Ws 1604.02(a)(1) by continuing to dispose of septage at the Facility past the September 22, 2003 expiration date of the Waiver Approval issued September 23, 2002.
2. B&S has violated Env-Ws 1604.02(h) by continuing to dispose of septage at the Facility past the September 22, 2003 expiration date of the Waiver Approval issued September 23, 2002.
3. B&S has violated Env-Ws 1608.08(e)(2) by continued operation of the Facility with less than the required 2-foot freeboard.
4. B&S has violated Section IV.1 of the Closure Plan Approval required by Env-Ws 1608.09 and approved by DES on March 13, 2001 by continuing to dispose of septage at the Facility past the September 22, 2003 expiration date of the Waiver Approval issued September 23, 2002.
5. B&S has violated Section V of the Waiver Approval by continuing to dispose of septage at the Facility past the September 22, 2003 expiration date of the Waiver Approval issued September 23, 2002.

E. ORDER

Based on the above findings, DES hereby orders Raymond St. Laurent as follows:

1. By **May 15, 2004**, B&S shall notify DES of its intent to either: apply for a Septage Facility Permit, or to cease operation and close the Facility.
2. If B&S chooses to apply for a Septage Facility Permit, then by B&S shall submit an application for a Septage Facility Permit to DES in accordance with Env-Ws 1608 by **August 31, 2004**. This application must demonstrate that the septage lagoons for the Facility will either: 1) Comply with a 500-foot buffer (setback) distance required by Env-Ws 1608.08(f), or, 2) Be acceptable to abutters within 500 feet of the lagoons. The application shall include a hydrologic study of the facility by a licensed Professional Geologist or Professional Engineer to provide data demonstrating groundwater will not be contaminated beyond AGQS at the groundwater discharge zone by the proposed operations, as required by Env-Ws 1500.

3. If B&S chooses to cease operation and close the Facility, then B&S shall cease further discharge of septage at the Facility by **November 30, 2004** and proceed to close the Facility in accordance with the Septage Facility Closure Plan Approval dated March 13, 2001. Closure of the facility, with the exception of closure verification groundwater monitoring, shall be completed by **July 1, 2005**.
4. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Alexis Rastorguyeff, P.E., Residuals Management Section
DES Water Division
29 Hazen Drive P.O. Box 95
Concord, NH 03302-0095 Fax: (603) 271-4128
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F. APPEAL


Any person aggrieved by this Order may appeal the Order to the Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve B&S of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 485-A:43 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. B&S remains obligated to comply with all applicable Groundwater Discharge requirements. DES will continue to monitor B&S' compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded at the Merrimack County Registry of Deeds so as to run with the land.


Harry T. Stewart, P.E., Director
Water Division


Michael P. Nolin, Commissioner
Department of Environmental Services

Certified Mail/RRR: 7000 1670 0000 0585 6892

Gretchen Rule, DES Legal Unit
Public Information Officer, DES PIP Office
Jennifer Patterson, NH AGO
Mitch Locker, P.G., DES Water Supply Engineering Bureau
Jeremy Lamson, Pittsfield Town Administrator